

ARKANSAS WILDERNESS ACT OF 1984

MAY 18 (legislative day, MAY 14), 1984.—Ordered to be printed

Mr. McCLURE, from the Committee on Energy and Natural Resources,
submitted the following

REPORT

[To accompany S. 2125]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 2125) entitled the "Arkansas Wilderness Act of 1983," having considered the same, reports favorably thereon with amendments to the text and to the title and recommends that the bill, as amended, do pass.

The amendments are as follows:

1. On page 1, line 4, strike "1983." and insert "1984".
2. On page 3, line 10, strike "SEC. 4." and insert "SEC. 3."
3. On page 4, line 4, strike "'Belle Starr Caves'" and insert, "'Poteau Mountain"; and on page 4, lines 6 and 7, strike "Belle Starr Caves" and insert "Poteau Mountain".
4. On page 4, line 13, strike "Wilderness;" and insert the following:

Wilderness: *Provided*, That for purposes of the Act of July 14, 1955 (69 Stat. 322) as amended, the Flatside Wilderness may be reclassified only by Act of Congress;
5. On page 4, lines 14 through 19, delete subsection (e) in its entirety and renumber the subsequent subsections accordingly.
6. On page 6, line 3, strike "Wilderness;" and insert "Wilderness; and".
7. On page 6, line 9, strike "Wilderness;" and insert "Wilderness."
8. On page 6, after line 9, add the following new section and renumber all subsequent sections accordingly:

SEC. 4. The Congress finds that certain lands within the Ouachita National Forest, Arkansas, have important scenic, recreational, and wildlife values. In order to conserve and protect these values, the area lying adjacent to and between

the two portions of the Poteau Mountain Wilderness as designated by this Act and comprising approximately three thousand four hundred acres, as generally depicted on a map entitled "Poteau Mountain Wilderness—Proposed", dated November 1983, shall be managed to protect the scenic, recreational, and wildlife values of these lands and shall be hereby withdrawn, subject to valid existing rights, from all forms of appropriation under the mining laws and from disposition under all laws pertaining to mineral leasing and geothermal leasing and all amendments thereto. The area shall further be administered by the Secretary of Agriculture to maintain presently existing wilderness with no commercial timber harvesting nor additional road construction permitted. The Secretary is authorized to permit motor vehicle access within the area where such access was established prior to the date of enactment of this Act or where such access is compatible with the purposes for which the area was designated. Management direction for the area that recognizes these values shall be included in the forest plan developed for the Ouachita National Forest in accordance with section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976.

9. On page 6, beginning on line 10, strike section 4 in its entirety and insert in lieu thereof the following new language:

Sec. 5(a) The Congress finds that—

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II);

(2) the Congress has made its own review and examination of national forest system roadless areas in Arkansas and of the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the questions of the legal and factual sufficiency of the RARE II Final Environmental Impact Statement (dated January 1979) with respect to national forest system lands in States other than Arkansas, such statement shall not be subject to judicial review with respect to national forest system lands in the State of Arkansas;

(2) with respect to the national forest system lands in the State of Arkansas which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II) and those lands referred to in subsection (d), that review and evaluation or reference shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Manage-

ment Act of 1976, to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revisions of the plans, but shall review the wilderness option when the plans are revised, which revisions will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless, prior to such time the Secretary of Agriculture finds that conditions in a unit have significantly changed;

(3) areas in the State of Arkansas reviewed in such final environmental statement or referenced in subsection (d) and not designated wilderness upon enactment of this Act, or proposed for special management in section 4 of this Act, shall be managed for multiple use in accordance with land management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976: *Provided*, That such areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the initial land management plans;

(4) in the event that revised land management plans in the State of Arkansas are implemented pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law, areas not recommended for wilderness designation need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of such plans, and areas recommended for wilderness designation shall be managed for the purpose of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law; and

(5) unless expressly authorized by Congress, the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of national forest system lands in the State of Arkansas for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

(c) As used in this section, and as provided in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, the term "revision" shall not include an "amendment" to a plan.

(d) The provisions of this section shall also apply to national forest system roadless lands in the State of Arkansas which are less than five thousand acres in size.

10. On page 9, after line 5, add the following new section:

SEC. 7. Congress does not intend that designation of wilderness areas in the State of Arkansas lead to the creation of protective perimeters or buffer zones around each wilderness area. The fact that nonwilderness activities or uses can be seen or heard from areas within the wilderness shall not, of itself, preclude such activities or uses up to the boundary of the wilderness.

Amend the title so as to read:

A bill to designate certain national forest system lands in the State of Arkansas for inclusion in the National Wilderness Preservation System, and for other purposes.

PURPOSE OF MEASURE

The purpose of S. 2125 as ordered reported is to designate approximately 117,000 acres of national forest land in the State of Arkansas for inclusion in the National Wilderness Preservation System. The measure also insures that certain other national forest system lands in the State of Arkansas not designated as wilderness by this Act be available for other multiple uses.

BACKGROUND AND NEED

The Forest Service inventoried approximately 208,000 acres of roadless lands in Arkansas during the Second Roadless Area Review and Evaluation (RARE II). As a result of that evaluation, the Carter Administration, on April 15, 1979, recommended some 25,426 acres in Arkansas be designated as wilderness; approximately 38,300 acres be placed in a further planning category; and 145,400 acres be made available for uses other than wilderness.

In 1980, a Federal District Court found that the RARE II Final Environmental Impact Statement did not meet the requirements of the National Environmental Policy Act. This decision was subsequently upheld by the Ninth Circuit Court of Appeals. While the effect of this decision on other Forest Service regions is unclear, the Forest Service believes that activities on areas inventoried in RARE II could be subject to administrative and judicial review. As a result, there is considerable uncertainty concerning the Forest Service's ability to plan for and manage the national forests—especially those lands inventoried and studied in the RARE II process.

S. 2125 seeks to resolve the RARE II controversy in Arkansas by designating certain national forest system lands in the State as wilderness and by making other lands available for other multiple uses.

LEGISLATIVE HISTORY

S. 2125 was introduced by Senators Bumpers and Pryor on November 17, 1983. On February 22, 1984, Senator Tower was added as a cosponsor. Field hearings were held in Little Rock on February 15, 1984. A hearing in Washington, D.C., before the Subcommittee on Public Lands and Reserved Water, was conducted on April 6, 1984. The Administration has recommended that S. 2125 not be enacted. At a business meeting on May 2, 1984, the Committee on Energy and Natural Resources ordered S. 2125, as amended, favorably reported.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources, in open business session on May 2, 1984, by a unanimous vote of a quorum present recommended that the Senate pass S. 2125, if amended, as described herein.

The rollcall vote on reporting the measure was 21 yeas, 0 nays as follows:

YEAS

NAYS

Mr. McClure
 Mr. Hatfield
 Mr. Weicker ¹
 Mr. Domenici ¹
 Mr. Wallop
 Mr. Warner
 Mr. Murkowski ¹
 Mr. Nickles ¹
 Mr. Hecht
 Mr. Chafee
 Mr. Heinz ¹
 Mr. Evans
 Mr. Johnston ¹
 Mr. Bumpers
 Mr. Ford
 Mr. Metzenbaum ¹
 Mr. Matsunaga
 Mr. Melcher
 Mr. Tsongas ¹
 Mr. Bradley
 Mr. Levin ¹

¹ Indicates voted by proxy.

COMMITTEE AMENDMENTS

During the consideration of S. 2125, the Committee adopted several amendments to the bill as introduced. A discussion of the amendments follows:

1. The first amendment changes the short title to reflect the current year.
2. The second amendment adopted by the Committee was a technical amendment correcting an improper section reference.
3. The third amendment changes the name of the proposed "Belle Starr Caves" wilderness to the "Poteau Mountain" wilderness.
4. The fourth amendment makes it clear that for the purposes of the Clean Air Act, the proposed Flatside Wilderness area may not be redesignated as a Class I air quality area unless so classified by an act of Congress. This language is identical to that adopted by the Committee and the Congress last year in the West Virginia Wilderness bill.
5. The next amendment adopted by the Committee deletes the proposed 300-acre Upper Kiamichi River Wilderness from S. 2125. The Committee took this action not because the area lacks wilderness attributes. Rather, the area was deleted from this bill because the vast majority of the roadless area (10,800 out of 11,100 acres) is located in

Oklahoma and not the subject of this bill. The Committee directs that the Forest Service continue to manage these 300 acres to protect their wilderness suitability in accordance with the Forest Service's own recommendations that the area should be added to the National Wilderness Preservation System.

6. and 7. The next two Committee amendments are technical and correct punctuation errors.

8. The next Committee amendment adds new language regarding the management of certain lands lying adjacent to and between the two portions of the proposed Poteau Mountain Wilderness. While these lands are not being designated as wilderness, it is the intent of the Committee that the significant scenic, recreation, and wildlife values of these lands be protected. Motor vehicle use in the area on existing roads may be permitted. This use is especially important for hunters, fishermen, and other users of the area.

9. The ninth amendment adds new release/sufficiency language to the measure.

"Release/sufficiency" language has been incorporated by the Congress in several State wilderness bills enacted over the past several years. That language statutorily confirmed the April 1979 administrative "release" of certain RARE II nonwilderness recommended lands and released other lands not designated as wilderness or wilderness study. This was commonly referred to as "Colorado release".

The language continued to trouble a number of affected industry groups, and in an effort to address their concerns, the Committee has made clarifications in the statutory language found in section 5. The Committee wishes to further clarify the purpose and intent of the provisions of this section and elaborate on certain issues not specifically discussed in previous bills.

The question of "release", i.e., making lands available for non-wilderness management and possible development arises from the interest in the future management of areas reviewed during the RARE II process. The controversy focuses on the point at which those lands not designated as wilderness by this Act but reviewed in the RARE II process can again be considered for possible recommendation to the Congress for designation as wilderness, and on the questions of how these lands will be managed.

The "sufficiency" aspect of this question arose because of a decision in Federal District Court in California. Soon after the completion of RARE II, the State of California brought suit against the Secretary of Agriculture challenging the legal and factual sufficiency of the RARE II Final Environmental Impact Statement insofar as its consideration of wilderness in some 46 areas in the State of California was concerned.

In January 1980 Judge Lawrence Karlton of the United States District Court for the Eastern District of California, in *State of California v. Bergland*, 483 F. Supp. 465 (1980), held that the RARE II Final Environmental Statement had insufficiently considered the wilderness alternative for the specific areas challenged. Judge Karlton enjoined any development which would "change the wilderness character" of these areas until subsequent consideration of the wilderness values in accordance with the National Environmental Policy Act was completed by the Department of Agriculture. The Ninth Circuit Court

of Appeals affirmed in District Court opinion in *California v. Block*, 690 F.2d 653 in 1982.

While the decision applied specifically only to the 46 roadless areas in California for which the plaintiffs sought relief, the overall conclusions in the case are biding in States such as Arkansas that are located in the Ninth Circuit. The net effect is that development activities on roadless areas in such States may be held up if appealed in administrative or judicial forums. This has, in fact, already happened in several instances, and has thrown a cloud of uncertainty over the development of some roadless areas, whereas development has occurred in others.

The Wilderness Act of 1964 provides that only Congress can designate land for inclusion in the National Wilderness Preservation System. Since the Committee has, in the course of developing this bill, very carefully reviewed the roadless areas in Arkansas for possible inclusion in the National Wilderness Preservation System, the Committee believes that judicial review of the RARE II Final Environmental Statement insofar as national forest system lands in Arkansas are concerned is unnecessary. Therefore, the bill provides that the final environmental statement is not subject to judicial review with respect to national forest system lands in Arkansas.

The Committee does wish to reemphasize that the sufficiency language in this Act only holds the RARE II EIS to be legally sufficient for the roadless areas in the State of Arkansas and only on the basis of the full review undertaken by the Congress. Similar language will be necessary to resolve the issue in the other State.

The RARE II process during 1977-79 took place concurrently with the development by the Forest Service of a new land management planning process mandated by the National Forest Management Act of 1976. That process requires that the forest land management plans be reviewed and revised periodically to provide for a variety of uses. During the review and revision process the Forest Service is required to study a broad range of potential uses and options including wilderness. In conjunction with the National Environmental Policy Act, NFMA provides that the option of recommending land to Congress for inclusion in the National Wilderness Preservation System is one of the many options which must be considered during the planning process for those lands which may be suited for wilderness. The language of S. 2125 reconfirms this requirement. The Forest Service is presently developing the initial, or "first generation," plan for each national forest. These are the so-called "section 6" plans and are targeted for completion by September 30, 1985. For the three national forests in Arkansas, some plans may not actually be completed and implemented until 1986 or later due to administrative problems including delay resulting from the cloud of the California lawsuit and the debate taking place as a result of pending legislation.

One of the goals of RARE II was to consider the wilderness potential of national forest roadless areas. The Committee believes that further consideration of wilderness during development of the initial plans for the certain national forest system roadless areas as defined by section 5, not designated as wilderness upon enactment of S. 2125 would be duplicative of the study and review which has recently taken place by both the Forest Service and the Congress. Therefore, the re-

lease language of S. 2125 provides that wilderness values of these areas need not be reviewed again during development of the "first generation plans." Moreover, the language provides that during development of, and prior to or during revision of initial plans, released areas need not be managed for the purpose of protecting their suitability for wilderness designation.

Beyond the initial plans lies the issue of when the wilderness option for roadless areas should again be considered. As noted, the initial plans are targeted for completion by September 30, 1985. The National Forest Management Act provides that a plan shall be in effect for no longer than 15 years before it is revised. The Forest Service regulations, however, provide that a forest plan "shall ordinarily be revised on a 10-year cycle or at least every 15 years." (36 CFR 219.10(g)). The language of S. 2125 tracks these regulations.

The bill, as reported, provides that the Department of Agriculture shall not be required to review the wilderness option until it revises the initial plans. By using the work "revision" the Committee intends to make it clear, consistent with NFMA and current Forest Service regulations, that amendments or even amendments which might "result in a significant change" in a plan, would not trigger the need for reconsideration of the wilderness option and section 5 so provides. The wilderness option does not need to be reconsidered until the Forest Service determines, based on a review of the lands covered by a plan, that conditions in the area covered by a plan have changed so significantly that the entire plan needs to be completely revised.

A revision of a forest plan will be a costly undertaking in terms of dollars and manpower and the Committee does not expect such an effort to be undertaken lightly. Every effort will be made to address local changes through the amendment process leaving the revision option only for major, forest wide changes in conditions or demands.

For example, if a new powerline were proposed to be built across a forest, this would be accomplished by an amendment, not a revision, and therefore the wilderness option would not have to be re-examined. Likewise, the construction of new range improvements or adjustments in livestock allotments for permittees would not constitute a "revision". It is only when a proposed change in management would significantly affect overall goals or uses for the entire forest concerned, that a "revision" would occur. For example, the recent eruption of Mount St. Helens, because it affect so much of the land on the entire Gifford Pinchot National Forest, including the forest's overall timber harvest scenario, would likely have forced a "revision" of the plan. Likewise, decisions to dramatically increase timber harvest levels on an entire forest or to change a multiplicity of uses in order to accommodate greatly increased recreation demands might force a "revision." In this regard, the Committee wishes to note, however, that in the vast majority of cases the 10-15 year planning cycle established by NFMA and the existing regulations is short enough to accommodate most changes. Conditions are highly unlikely to change so dramatically prior to 10-15 years that more frequent "revisions" would be required. For example, it would be hard to envision a scenario under which demands for primitive, semi-primitive or motorized recreation would increase so rapidly over an entire national forest that the Forest Service would feel obligated to revise a plan prior to the normal 10-15 year life span.

Recreation demands might increase in a specific area or areas, but such demands could be met by amending the plan, as opposed to revising it.

Forest Service Chief Max Peterson has indicated that, in his view, most plans will be in existence for approximately 10 years before they are revised. The Committee shares this view and anticipates that the vast majority of plans will not be revised significantly in advance of their anticipated maximum lifespan absent extraordinary circumstances. The Committee understands and expects that with first generation plans to be in effect by late 1985, or slightly later, the time of revision for most plans will begin around 1995. In almost every case, the Committee, therefore, expects that the consideration of wilderness for these roadless areas will not be reexamined until approximately 1995. The Committee notes that administrative or judicial appeals may mean that many first generation plans are not actually implemented until the late 1980's, in which case plan revisions would be unlikely to occur until around the year 2000, or beyond. Or, if the full 15 years allowed by NFMA runs before a revision is undertaken, the wilderness option may not in some cases be reviewed until the year 2000 or later.

The questions has also arisen as to whether a "revision" would be triggered if the Forest Service is forced by the courts to modify or rework an initial plan, or if the Forest Service withdrew an initial plan to correct technical errors or to address issues raised by an administrative appeal. The Committee wishes to state in the most emphatic terms possible, that any reworking of an initial plan for such reasons would obviously not constitute a "revision" of the plan that would reopen the wilderness questions. Rather, any such reworking would constitute proper implementation of the plan. The logic for the Committee's reasoning in this regard is that any such court ordered or administrative reworkings or modifications of a plan would come about to resolve questions related to the preparation and implementation of the plan in accordance with the requirements of NFMA and other applicable law. So such reworking or modification would not be a "revision" (which pursuant to NFMA and the implementing regulations is to be based on changed conditions or demands on the land), because a plan must be properly prepared and implemented before it can be "revised".

The fact that the wilderness option for roadless areas will be considered in the future during the planning process raises the hypothetical argument that the areas must be managed to preserve their wilderness attributes so these may be considered in the future. Such an interpretation would result in all roadless areas being kept in de facto wilderness for a succession of future planning processes. Such a requirement would completely frustrate the orderly management of non-wilderness lands and the goals of the Forest and Rangeland Renewable Resources Planning Act as amended.

To eliminate any possible misunderstanding on this point, the bill provides that areas not designated as wilderness need not be managed for the purpose of protecting their suitability for further wilderness review prior to or pending revision of the initial plans. The Committee believes the Forest Service already has statutory authority to manage roadless areas for multiple use, nonwilderness purposes. It wishes to make clear, however, that study of the wilderness option in future

generations of section 6 plans is required only for those lands which may be suited for wilderness at the time of the implementation of the future plans. Between the planning cycles, the uses authorized in the plan in effect can proceed until a new plan is implemented. In short, one plan will remain in effect until the second plan is implemented. For lands recommended for nonwilderness uses in future generations of plans there is no bar to management which may, as a practical matter, result in the land no longer being suited for wilderness. Thus it is likely that many areas studied for wilderness in one generation of plans may not physically qualify for wilderness consideration by the time the next generation of plans is prepared. As an example of this, the Committee notes that many areas studied for wilderness in RARE II and recommended for nonwilderness have already been developed since their administrative "release" in April of 1979.

Therefore, under this language, the Forest Service may conduct a timber sale in a roadless area and not be challenged on the basis that the area must be considered for wilderness in a future planning cycle. Once a second-generation plan is implemented in accordance with applicable law including the National Environmental Policy Act, the Forest Service may, of course, manage a roadless area not recommended for wilderness designation according to that plan without the necessity of preserving the wilderness option for the third-generation planning process. Should the particular area still be suited for possible wilderness at the time of the third-generation planning process, the wilderness option would be considered at that time. In short, the wilderness option must be considered in each future planning generation if the particular lands in question still possess wilderness attributes. But there is no requirement that these attributes be preserved solely for the purpose of their future evaluation in the planning process.

In short, this language means that the Forest Service cannot be forced by any individual or group through a lawsuit, administrative appeal, or otherwise to manage lands not recommended for wilderness designation in a "de facto" wilderness manner. Of course, the Forest Service can, if it determines it appropriate, manage lands in an undeveloped manner, just as it can, if through the land management planning process it determines it appropriate, develop released lands. The emphasis here is that the Forest Service will be able to manage released lands in the manner determined appropriate through the land management planning process.

However, the language also provides that lands recommended for wilderness in future generations of plans shall be managed for the purpose of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976, and other applicable law upon implementation of such plans.

The final issue addressed by the Committee in section 5 of S. 2125 pertains to the possibility of future administrative reviews similar to RARE I and RARE II. With the National Forest Management Act planning process now in place, the Committee wishes to see the development of any future wilderness recommendations by the Forest Serv-

ice take place only through that planning process, unless Congress expressly asks for other additional evaluations. Therefore, the legislation directs the Department of Agriculture not to conduct any further statewide roadless area review and evaluation of national forest system lands in Arkansas for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

The Committee recognizes that this directive might technically be evaded by conducting such a study on some basis slightly smaller than statewide. The Committee is confident, however, that the Department recognizes the spirit as well as the letter of this language and that the Committee can expect there will be no "RARE III."

10. The last amendment adopted by the Committee during the markup of S. 2125 adds a new section identical to that included in a number of other wilderness bills prohibiting the creation of buffer zones around wilderness areas in Arkansas.

SECTION-BY-SECTION ANALYSIS

Section 1 as reported contains the short title of S. 2125: The Arkansas Wilderness Act of 1984.

Section 2 includes findings and purposes.

Section 3 of S. 2125 as ordered reported contains the list of proposed wilderness areas recommended for inclusion in the National Wilderness Preservation System. A brief discussion of each area follows:

Black Fork Mountain Wilderness

As reported, S. 2125 would designate a 10,962-acre Black Fork Mountain Wilderness in the Ouachita National Forest. The area is dominated by a 20-mile-long ridge running in an east-west direction parallel and to the north of Rich Mountain. Approximately one-third of the mountain lies in Oklahoma and the remainder in Polk County, Arkansas. An extensive, apparently virgin, forest and a wide variety of mature and stable plant communities make this a very important recreation and research area.

Dry Creek Wilderness

S. 2125, as ordered reported, includes a 6,470-acre Dry Creek Wilderness also in the Ouachita National Forest. The area lies within the Atoka sandstone and shale formation at the southern fringe of the Arkansas Basin. Communities of the oak-hickory-pine association dominate the area. Wildlife communities consist of typical species of mammals (including black bear), reptiles, and birds. From the ridgeline of Petit Jean Mountain (south) to the valley floor, the area encompasses many sheer bluffs, characteristic of the Ozark Mountains.

Poteau Mountain Wilderness

The Committee-reported version of S. 2125 includes a 14,524-acre Poteau Mountain Wilderness (formerly Belle Starr Caves) in the Ouachita National Forest.

The area exhibits oak-hickory-pine vegetation associations typical of the Ozarks. Ozark Chinkapin is known along the upper portion of the Poteau Mountain area. The Poteau River is the closest major waterway in the area.

The area, both the eastern and western portions, provides an integrated example of wild and undeveloped lands with the rugged, Penn-

sylvanian sandstone and shale formations providing unique scenic opportunities. The headwaters of four major creeks are wholly contained within the boundaries of the area, and allow for a wide diversity of plant types from the ridgeline down to the valley floor. (See the "Committee Amendment" section of this report for a discussion of the management of the lands between the east and west portion of the wilderness area.)

Flatside Wilderness

S. 2125, as ordered reported, would designate a 10,735-acre Flatside Wilderness in the Ouachita National Forest.

The Flatside Wilderness lies in the eastern portion of the National Forest only 60 miles from Little Rock. This area presents nearby wilderness opportunities for a large part of the State's residents and is heavily used at present.

Although the area is near an urban center, it is cushioned by a 20-mile expanse of national forest land to the east and has national forest land extending all the way to Oklahoma on the west. Two extremely rugged mountains are located on the borders. Like bookends for the wilderness, Forked Mountain rises on the western edge while Flatside Pinnacle looms distinctively on the eastern side. Both of these mountains are so severely inclined and rocky that they are void of vegetation in many places. They resemble the better known Pinnacle Mountain which lies 40 miles to the east.

Upper Buffalo Addition

As reported, S. 2125 would add 1,504 acres to the existing Upper Buffalo Wilderness in the Ozark-Saint Francis National Forest. This addition will help complete boundaries and add valuable natural lands to the existing Upper Buffalo Wilderness in Arkansas. It is nestled in the heart of the Boston Mountains just upstream from the boundary of the Buffalo National River. Possessing outstanding natural character, the Upper Buffalo Wilderness embraces the headwaters of the Buffalo River and several of its tributaries. Serving as watershed protection for the upper segments of the Buffalo River, the wilderness is an essential ingredient in the overall effort to maintain the Buffalo River as an unpolluted, natural waterway.

The proposed addition is known to have diverse plant life, as well as a variety of animals including black bear. The addition of these lands to the Upper Buffalo Wilderness will aid in the management of the area and will provide increased habitat for wilderness dependent species.

Hurricane Creek Wilderness

A 15,173-acre Hurricane Creek Wilderness in the Ozark-Saint Francis National Forest would be designated by S. 2125 as ordered reported.

The Hurricane Creek area, because of its size and diversity, rugged character and relatively undisturbed quality, is well-suited to designation as a part of the National Wilderness Preservation System. The most widely used part of the proposed wilderness area (for recreational purposes, that is) is the southern half of Hurricane Creek. This area provides a most interesting experience during all seasons of the

year due to its remote forest, the unique rock formations that occur here, and the scenic qualities of the Hurricane Creek itself, a wild, boulder-strewn mountain stream which provides focus for much of the natural beauty of the entire area. Several additional year-round and intermittent flow through the tract enhancing diversity and increasing interest.

Richland Creek Wilderness

As reported, S. 2125 would designate an 11,822-acre Richland Creek Wilderness in the Ozark-Saint Francis National Forest. Richland Creek has been identified for years as one of the finest wilderness areas in the Ozarks. The pristine hollows, rock overhangs and spectacular waterfalls make wilderness designation for this area entirely appropriate. Big Devil's Fork and Long Devil's Fork, two principal streams in the area, shed into Richland Creek above the campground along Forest Service Road #1205.

The area exhibits upland hardwood forms predominantly, with some local variation due to pine mixture. The varied soil types, limestone and sandstone based, provide a multitude of niches for the diverse hardwood forms.

Penhook Wilderness

The 10,729-acre Penhook Wilderness proposed in S. 2125 as ordered reported is also located in the Ozark-Saint Francis National Forest. The Penhook area is made up of rugged hollows winding along several miles of the Middle Fork of the Illinois Bayou. Penhook Hollow serves as a tributary to the lowest segment of the Middle Fork between Fork and Younger Mountains.

The flora is typical of the Bostons and is especially showy in autumn due to the abundance of sugar maples there. Penhook Hollow, along with other canyons occurring within the boundaries of this area, has an extremely interesting character, with large specimens of hardwoods and an undisturbed forest floor. The particularly deep and shadowed canyons such as Penhook Hollow, Manthis Hollow and Sugartree Hollow provide an opportunity to experience closely-contained forest communities, bounded by steep cliffs and lined with overhangs and bluffs.

East Fork Wilderness

S. 2125 as reported includes an 18,292-acre East Fork Wilderness in the Ozark-Saint Francis National Forest.

The proposed East Fork Wilderness lies in the southeastern portion of the Ozark National Forest in Arkansas only 80 miles from Little Rock.

The area is a true representation of the Ozarks and is a part of the most southeastern extension of the Boston Mountains. It contains more pine than other areas of the Ozarks but remains primarily an oak-hickory forest. Common species of plants and animals can be found here including deer, turkey, racoon, bear and others.

The East Fork of the Illinois Bayou courses through the area for 6 miles and provides high quality protection, as well as for opportunities for the study of native plants and animals that thrive in an undisturbed setting.

Leatherwood Wilderness

Finally, S. 2125 as reported would designate a 16,956-acre Leatherwood Wilderness in the Ozark-Saint Francis National Forest.

Because of its size and rugged nature, Leatherwood offers high quality opportunities for primitive recreation. The wilderness contains the entire watershed of Leatherwood Creek and the upper stretches of North and South Prongs of Middle Creek. All of the streams in the area flow west towards the Buffalo River. Caves and springs are numerous in the limestone/dolomite formations of the area. Middle Creek and Leatherwood Creek also demonstrate exciting waterfall formations along the numerous rock ledges that decorate the area. Leatherwood also contains a large variety of native Ozark animals. Deer, turkey, fox, bobcat and mink are known to be present. Black bear is suspected, as is the American Cougar.

Section 4 of S. 2135, as ordered reported, includes special management language for some 3,400 acres of forest system lands located between and adjacent to the two portions of the proposed Poteau Mountain Wilderness.

Section 5 of S. 2125, as ordered reported, contains new release/sufficiency language which reflects the compromise agreed to by Senators McClure and Congressmen Udall and Seiberling and adopted by the Committee on Energy and Natural Resources. (See the "Committee Amendment" section of this report for a discussion of this language.)

Sections 6 and 7 of S. 2125, as ordered reported, contain standard provisions relating to the filing of maps, legal descriptions, and the administration of the proposed wilderness areas.

Section 8 of S. 2125, as ordered reported, prohibits the creation of protective perimeters or buffer zones around wilderness areas in Arkansas.

COST AND BUDGETARY CONSIDERATIONS

The Committee does not intend that this measure (S. 2125) authorize any additional budget authority for fiscal year 1984 than that already available to the Department of Agriculture. The Committee intends that if any fiscal year 1984 costs are incurred from implementation of the bill that they will be absorbed within funds otherwise available to the Department of Agriculture.

The following estimate of the cost of this measure has been provided by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., May 7, 1984.

HON. JAMES A. MCCLURE,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed S. 2125, the Arkansas Wilderness Act of 1983, as ordered reported by the Senate Committee on Energy and Natural Resources, May 2, 1984.

This bill adds approximately 117,171 acres of National Forest System lands in Arkansas to the national wilderness preservation system, and designates an additional 3,400 acres of land for special management to preserve the wilderness characteristics of adjacent lands. Based on information from the National Forest Service (NFS), it is estimated that additional costs to the federal government for surveying, planning and related activities will be approximately \$600,000 over the five fiscal years beginning with 1985.

According to the provisions of the National Wilderness Preservation System Act, all timber in areas designated as units of the national wilderness preservation system is removed from the timber base of the national forest in which it is located. This results in a reduction of the annual potential yield of the forest. The annual loss of timber receipts resulting from this bill is expected to be less than \$350,000 per year. Any such losses would be at least partially offset by reduced payments to state and local governments, and by a reduction in timber purchaser road construction credits.

Lands designated as wilderness are also withdrawn from mineral activity under the terms of the National Wilderness Preservation Act. This provision is not expected to have a significant budget impact, because existing surveys show little mineral potential in lands involved. However, final assessments of mineral value have not been completed for all areas covered by this bill.

All roadless areas in national forests not designated as wilderness or expressly excluded from further review by an act of the Congress are currently being reevaluated for their suitability for inclusion in the national wilderness preservation system. S. 2125 removes from this review all roadless areas in Arkansas included in the Department of Agriculture's second Roadless Area Review and Evaluation (RARE II). This will result in a small savings in land management planning costs over the next three years.

Enactment of this bill would not significantly affect the budgets of State and local governments.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

RUDOLPH G. PENNER, *Director*.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11 (b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 2125, to designate certain lands in the State of Arkansas for inclusion in the National Wilderness Preservation System.

The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little if any additional paperwork would result from the enactment of S. 2125.

EXECUTIVE COMMUNICATIONS

The pertinent legislative report received by the Committee setting forth Executive agency recommendations relating to S. 2125 is set forth below:

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., March 15, 1984.

HON. JAMES A. McCURE,
*Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: As requested here is our report on S. 2125, a bill entitled the "Arkansas Wilderness Act of 1983."

The Department of Agriculture recommends that S. 2125 not be enacted.

S. 2125 would designate 10 new wilderness areas totaling 115,977 acres and add 1,504 acres to the existing Upper Buffalo Wilderness.

Three of the areas proposed by S. 2125 for wilderness—Penhook, Leatherwood, and East Fork—were recommended as nonwilderness in the RARE II Final Environmental Impact Statement. Penhook was not recommended for wilderness because of important timber values, 16 miles of roads, and numerous pine plantations. Leatherwood was not recommended because there are approximately 499 acres of private land in 11 widely scattered tracts, 91 miles of roads, important timber values with numerous pine plantations, and manmade wildlife openings. East Fork was not recommended because it has high timber values, 78 miles of roads, two cemeteries, and significant evidence of past logging and management activities. All three areas are included for planned future timber sales.

We recommend that Penhook, Leatherwood, and East Fork areas not be designated as wilderness.

The proposed Flatside Wilderness contained in S. 2125 was not included in the RARE II inventory because the area did not meet criteria for the Roadless Area Review. Since 1965, 6.5 million board feet of timber has been harvested from the area. There are 40 miles of primitive roads and 1.2 miles of all-weather road in the Flatside area. Eighteen percent of the acreage included in Flatside is in young, recently regenerated timber stands, and the remainder of the area is in second growth. The Forest Service has invested \$59,000 to date on preparation of current timber sales and wildlife work in this area. The State of Arkansas has also planned wildlife improvement in the area. Because of the existing developments which we believe are incompatible with wilderness and other resources values, we recommend this area not be designated as wilderness.

S. 2125 would designate Richland Creek as wilderness, containing the congressionally designated Richland Creek Wilderness Study Area and the Richland Creek further planning area, for a total of 11,822 acres. As previously indicated, the Department of Agriculture recommends deferring designation as wilderness of the smaller 6,290-acre area until completion of the studies, and we recommend against designation of the remainder of this area because of existing roads, cutover forest lands, a cemetery, and privately owned mineral rights within the area.

The bill would also designate the Belle Starr Cave Wilderness. This area is a combination of three RARE II areas: Belle Starr Cave (WSA), Belle Starr East, and Belle Starr West further planning areas. The Forest Service has completed studies of the East and West Belle Starr areas together with the congressionally designated Belle Starr Cave Wilderness Study Area and is in the final stages of completing the Environmental Impact Statement. As previously stated, we recommend that action on this area be deferred until the study process has been completed and the President submits his recommendations to the Congress.

S. 2125 would designate only those acres in Black Fork Mountain and Upper Kiamichi that are in Arkansas. The portions of the adjoining areas in the State of Oklahoma should be designated as wilderness at the same time the Arkansas portions are designated. Based on the RARE II recommendations, the Department supports the designation of a Black Fork Mountain Wilderness of 12,320 acres and an Upper Kiamichi Wilderness of 10,410 acres, including lands in both Oklahoma and Arkansas.

The release language in S. 2125 would perpetuate the current uncertainties over the land base that will be available over the long term for nonwilderness multiple use activities. Local communities have a right to have some certainty over the land base which will be available to support economic activities upon which their future well-being depends. Under the language of the bill, if a change in physical conditions or litigation results in the need to revise the Forest Plan in only 2 years, the entire roadless area review and evaluation question would need to be raised. This would be extremely disruptive and a waste of Forest Service time and manpower.

We believe that, since Congress has considered roadless and undeveloped lands in the State of Arkansas for designation as wilderness and is in the process of enacting wilderness legislation, the remaining National Forest System lands not designated as wilderness or for study should be released in this bill from further wilderness consideration.

The Administration, therefore, strongly recommends that the release language contained in the bill be amended to provide permanent or at least more long-term stability to the National Forest System lands not designated by this bill or currently in the National Wilderness Preservation System.

The estimated cost for surveying, planning, and related activities necessary to implement wilderness designation for the 11 proposed areas in S. 2125 is approximately \$220,000 annually over the next 5 years.

The Office of Management and Budget advises there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

JOHN R. BLOCK, *Secretary*.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law would be made by the bill, S. 2125, as reported.













